

REMARKS

Applicants respectfully request reconsideration of this Application in view of the above Amendment and the following remarks.

Applicants have amended Claims 1, 4, 7, 12, 13, and 39. Applicants have cancelled Claims 2, 3, and 10. Applicants have added new Claim 79.

Claims 1, 7, 12, 13, and 39 have been amended to clarify that the AGIIS is isolated from a mixture comprising sulfuric acid and calcium hydroxide, or a calcium salt, or a mixture of calcium hydroxide and a calcium salt. Support for this amendment can be found in the Specification at Page 11, line 22 to Page 12, line 20. Applicants have also amended these claims to clarify that the mole ratio of calcium hydroxide to sulfuric acid in AGIIS is less than about 0.5. Support for this amendment can be found in the Specification at Page 16, line 11 and line 14; Page 30, line 4; Page 31, line 15; and Page 32, line 22; and Claim 10 (now cancelled). Applicants have also amended these claims to clarify that the pH of AGIIS is less than about 2. Support for this Amendment can be found in the Specification at Page 9, line 18; Page 10, line 25; and Page 21, line 23. Claim 4 has been amended to depend from Claim 1, rather than Claim 4.

New Claim 79 specifies that the calcium salt in AGIIS can be calcium sulfate, calcium oxide, or calcium carbonate. Support for this new claim can be found in the Specification at Page 12, lines 2 – 5.

Pending in the application are Claims 1, 4 – 9, 11 – 13, 39 – 41, and 79.

I. Rejections Under 35 U.S.C. §102

A. U.S. Patent No. 4,369,197 to Basel et al., as evidenced by U.S. Patent No. 3,366,490 to Wagner et al.

Claims 1 – 4, 6, 7, 9, 11 – 13, and 39 – 41 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,369,197 to Basel et al. (“Basel”). Applicants respectfully assert that

Basel does not disclose every element of these claims and thus does not anticipate the claimed subject matter.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Basel does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5. As indicated by the Examiner, Basel does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39. Furthermore, **Basel does not disclose AGIIS having a pH of less than about 2.** Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Basel.

For these reasons, Basel does not anticipate Claims 1 – 4, 6, 7, 9, 11 – 13, and 39 – 41.

B. U.S. Patent No. 4,830,862 to Braun et al.

Claims 1, 2, 5, 6, 12, 13, 39, and 40 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,830,862 to Braun et al. (“Braun”).

Applicants respectfully assert that Braun does not anticipate the claimed subject matter because **Braun does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5.** As indicated by the Examiner, Braun does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39. Furthermore, **Braun does not disclose AGIIS having a pH of less than about 2.** Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Braun.

For these reasons, Braun does not anticipate Claims 1, 2, 5, 6, 12, 13, 39, and 40.

C. U.S. Patent No. 4,983,409 to Nasu

Applicants wish to thank the Examiner for withdrawing the rejection of Claims 1, 2, 5, 6, 12, 13, and 39 – 41 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,983,409 to Nasu.

D. U.S. Patent No. 4,064,284 to Theron et al.

Claims 1 – 4, 6, 7, 9, 11 – 13, 39, and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,064,284 to Theron et al. (“Theron”).

Applicants respectfully assert that Theron does not anticipate the claimed subject matter because **Theron does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5**. As indicated by the Examiner, Theron does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39. Furthermore, **Theron does not disclose AGIIS having a pH of less than about 2**. Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Theron.

For these reasons, Theron does not anticipate Claims 1 – 4, 6, 7, 9, 11 – 13, 39, and 40.

E. European Patent Application Publication No. 0584976 to Kearns et al.

Claims 1, 5, 6, 12, 13, 39, and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by European Patent Application Publication No. 0584976 to Kearns et al. (“Kearns”).

Applicants respectfully assert that Kearns does not anticipate the claimed subject matter because **Kearns does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5**. As indicated by the Examiner, Kearns does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39. Furthermore, **Kearns does not disclose AGIIS having a pH of less than about 2**. Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Kearns.

Thus, Kearns does not anticipate Claims 1, 5, 6, 12, 13, 39, and 40.

F. Japanese Patent No. 358179436 to Tenmiyo et al.

Claims 1 – 4, 6, 7 – 9, 11 – 13, 39, and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent No. 358179436 to Tenmiyo et al. (“Tenmiyo”).

Applicants respectfully assert that Tenmiyo does not anticipate the claimed subject matter because **Tenmiyo does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5**. As indicated by the Examiner, Tenmiyo does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39. Furthermore, **Tenmiyo does not disclose AGIIS having a pH of less than about 2**. Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Tenmiyo.

For these reasons, Tenmiyo does not anticipate Claims 1 – 4, 6, 7 – 9, 11 – 13, 39, and 40.

G. U.S. Patent No. 6,024,994 to Jacobsen et al.

Applicants wish to thank the Examiner for withdrawing the rejection of Claims 1, 2, 12, 13, and 39 – 41 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,024,994 to Jacobsen et al.

H. U.S. Patent No. 6,086,927 to Frielich et al.

Claims 1 – 9, 11 – 13, 39, and 40 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,086,927 to Frielich, et al. (“Frielich”).

Applicants respectfully assert that Frielich does not anticipate the claimed subject matter because **Frielich does not disclose AGIIS isolated from a mixture comprising sulfuric acid and calcium hydroxide, wherein the mole ratio of calcium hydroxide to sulfuric acid is less than about 0.5**. As indicated by the Examiner, Frielich does not disclose the limitations of previously pending Claim 10, whose limitations have been incorporated into Claims 1, 7, 12, 13, and 39.

Furthermore, **Frielich does not disclose AGIIS having a pH of less than about 2.** Thus, the claims as amended recite elements that are not found, either expressly or inherently, in Frielich.

For these reasons, Frielich does not anticipate Claims 1 – 9, 11 – 13, 39, and 40.

I. U.S. Patent No. 6,331,514 to Wurzbürger et al.

Claims 1 – 6 and 7 – 12 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,331,514 to Wurzbürger, et al. (“Wurzbürger”).

Applicants respectfully assert that the ‘514 Patent cannot be used to reject the pending claims under 35 U.S.C. §102(e) because the current application has a priority date that predates the filing date of the ‘514 Patent. The current application claims priority to the filing date of its parent application, U.S. Patent Application Serial No. 09/253,482 (“the ‘482 Application”), which was filed on February 19, 1999. By contrast, the filing date of the ‘514 Patent is May 7, 1999.

Applicants also assert that the content of the ‘514 Patent relied upon in the rejection of the instant claims is not supported by its parent application, U.S. Patent Application Serial No. 08/994,547 (“the ‘547 Application”), which was filed on December 19, 1997. The ‘547 Application **does not disclose the use of calcium hydroxide.** The ‘547 Application discloses the use of calcium hydride only. Thus, **the content of the ‘514 Patent relied upon in the rejections of Claims 1 – 6 and 7 – 12 is not supported by the ‘547 Application.**

For these reasons, Wurzbürger does not anticipate Claims 1 – 6 and 7 – 12.

II. **Rejection Under 35 U.S.C. §103(a)**

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Frielich. The Examiner asserts that, although Frielich does not teach the mole ratio of sulfuric acid to calcium hydroxide within Claim 10, this range would be obvious in view of Frielich.

In light of the cancellation of Claim 10 above, Applicants respectfully assert that this rejection has been rendered moot.

However, because the limitations of Claim 10 have been substantially incorporated into other pending claims, Applicants also respectfully assert that Frielich does not teach or suggest all of the limitations of Claims 1, 7, 12, 13, and 39. In particular, **Frielich does not teach or suggest AGIIS having a pH of less than about 2.0**. Rather, Frielich teaches that the mixture should have a pH in the range of about 6 to about 7. *See* Frielich, Col. 3, lines 59 – 60 and Col. 4, lines 3 – 4.

For these reasons, Claims 1, 7, 12, 13, and 39 are patentable over Frielich.

III. Conclusion

Applicants respectfully submit that, in light of the foregoing comments, Claims 1, 4 – 9, 11 – 13, 39 – 41, and 79 are in condition for allowance. A Notice of Allowance is therefore requested.

If the Examiner has any other matters which pertain to this Application, the Examiner is encouraged to contact the undersigned to resolve these matters by Examiner's Amendment where possible.

Respectfully submitted,



T. Ling Chwang
Reg. No. 33,590
Jackson Walker L.L.P.
2435 North Central Expressway, Suite 600
Richardson, Texas 75080
Tel: (972) 744-2919
Fax: (972) 744-2909

January 14, 2004
Date

Attorney Docket No.:
MORN-0002P2 (108347.00011)

PATENT